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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,550	01/25/2002	Richard E. Michaelson	29757/P-570	8841

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EXAMINER	
JONES, SCOTT E	

ART UNIT	PAPER NUMBER
3713	

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

CS

Office Action Summary	Application No.	Applicant(s)	
	10/056,550	MICHAELSON, RICHARD E.	
	Examiner	Art Unit	
	Scott E. Jones	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 March 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 January 2002* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on March 15, 2004 in which applicant amends claims 1, 4, 14, 17, 22, 34, and 39-41, and responds to the claim rejections. Claims 1-41 are pending.

Drawings

2. The drawings are objected to because:

- In figure 3, box (100) is not labeled "controller" as stated on page 8, lines 3-4 of the specification.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 12-20, 22-24, 30-32, 34-37, and 39-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al. (U.S. 6,077,163).

Walker et al. discloses a method and apparatus for operating a gaming device having a flat rate play session costing a flat rate price. The flat rate play session spans multiple plays on the gaming device over a pre-established duration. The gaming device identifies price

parameters and determines the flat rate price of playing the gaming device based on those price parameters. In one embodiment, identifying price parameters includes receiving player selected price parameters. In another embodiment, price parameters further incorporate operator selected price parameters. Should the player decide to pay the flat rate price, the player simply deposits the necessary funds into the gaming device or makes a credit account available for the gaming device to debit. Once the player initiates play, the gaming device tracks the duration remaining in the flat rate play session and stops the play when the given period has elapsed, or a player terminates the flat rate session early (by pressing a cashout button). During the play, payouts are made either directly to the player in the form of coins or indirectly in the form of credits to the player's credit account. Walker et al. additionally discloses:

Regarding Claims 1, 4, 13, 14, 17, 22, 31, 34, and 39-41:

- receiving a value amount (724) to initially define a value total (Abstract, Figs. 2B, 5, 8A-B, 11A, 15, column 2, lines 1-5, and column 3, lines 25-30);
- causing a video image representing a game to be generated, said video image representing one of the following games: video poker, video blackjack, video slots, video keno and video bingo, said video image comprising an image of at least five playing cards if said game comprises video poker, said video image comprising an image of a plurality of simulated slot machine reels if said game comprises video slots, said video image comprising an image of a plurality of playing cards if said game comprises video blackjack, said video image comprising an image of a plurality of keno numbers if said game comprises video keno, and said video image

comprising an image of a bingo grid if said game comprises video bingo (Column 3, lines 1-5);

- deducting a fee at intervals from the value total independent of play of said game represented by said video image and independent of input from a player (Abstract, Figs. 2B, 5, 8A-B, 11A, 15, column 1, lines 62-65, column 2, lines 1-5, column 3, lines 25-30, column 11, lines 51-57, and claims 5, 36, 46, and 59); A flat rate fee is deducted at each player session.
- determining based on the fee a value payout associated with an outcome of said game represented by said video image (Figs. 6, 8A-B, and column 6, line 56-column 12, line 21); Based on the flat rate fee that is calculated the number of coins bet per play a pay combination jackpot is established as shown in figure 6 for example.
- adding the value payout to the value total (Fig. 13, Column 3, lines 25-30, and column 4, lines 27-35).

Regarding Claims 2, 5, 15, 18, 23, and 35:

- deducting a fixed fee periodically from the value total independent of play of said game represented by said video image (Abstract, Figs. 2B, 5, 8A-B, 11A, 15, column 2, lines 1-5, and column 3, lines 25-30); A flat rate fee is deducted at each player session.

Regarding Claims 3, 12, 16, 19, 30, and 36:

- interrupting for a period of time the deducting of a fee at intervals from the value total independent of play of said game represented by said video image (Column 4, lines

26-34). When a player cashes out early or transfers to another gaming machine the deducting of fees is interrupted.

Regarding Claims 6 and 24:

- causing a video image to be generated, the video image representing a game comprising a plurality of game piece images (cards in a Poker hand) (Column 18, lines 4-11).

Regarding Claims 20, 32, and 37:

- said gaming apparatuses being interconnected to form a network of gaming apparatuses (Fig. 1, 3, and column 3, line 40-column 4, line 4).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 7-10 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,077,163) in view of Colin et al. (U.S. 6,346,043).

Walker et al. discloses to one having ordinary skill in the art that as discussed above regarding claims 1-6, 12-20, 22-24, 30-32, 34-37, and 39-41. However, Walker et al. seems to lack explicitly disclosing:

Regarding Claims 7 and 25:

- displaying a value amount when the player selects one of the game piece images from the plurality of game piece images.

Regarding Claims 8 and 26:

- determining a value payout when the player selects one of the game piece images from the plurality of game piece images.

Regarding Claims 9 and 27:

- determining a value payout prior to when the player selects one of the game piece images from the plurality of game piece images.

Regarding Claims 10 and 28:

- displaying value amounts for the game piece images of the plurality of game piece images other than the one of the game piece images after displaying the value amount.

Colin et al., like Walker et al., teaches of a card type game that is played in a gaming machine, therefore, Colin et al. and Walker et al. are analogous art. Furthermore, Colin et al. teaches of a card image matching game that allows a player to have an active role in selecting the award. After the player makes a selection, the player is then allowed to see all of the awards associated with unselected symbols that were not won. Colin et al. teaches :

Regarding Claims 7 and 25:

- displaying a value amount when the player selects one of the game piece images from the plurality of game piece images (Fig. 2 and column 3, lines 16-25).

Regarding Claims 8 and 26:

- determining a value payout when the player selects one of the game piece images from the plurality of game piece images (Figs. 8, 9 and Column 4, lines 18-24).

Regarding Claims 9 and 27:

- determining a value payout prior to when the player selects one of the game piece images from the plurality of game piece images (Box 1 of Fig. 1).

Regarding Claims 10 and 28:

- displaying value amounts for the game piece images of the plurality of game piece images other than the one of the game piece images after displaying the value amount (Column 1, lines 60-62).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Colin's game features in Walker. One would be motivated to do so because giving a player an opportunity to select an award provides a high level of satisfaction to a player. Furthermore, allowing the player to see what the award and multiplier might have been achieved if the player had made choices different than those the player made may encourage some players and make the game more fun.

7. Claims 11 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,077,163) in view of Colin et al. (U.S. 6,346,043) and further in view of Bennett (U.S. 6,102,798).

Walker et al. in view of Colin et al. teaches to one having ordinary skill in the art that as discussed above regarding claims 7-10 and 25-28. However, Walker et al. in view of Colin et al. seems to lack explicitly disclosing:

Regarding Claims 11 and 29:

- displaying a value amount when one of the game piece images from the plurality of game piece images is automatically selected.

Bennett, like Walker et al. and Colin et al., teaches of a game that is played on a gaming machine. Furthermore, Bennett and Colin et al. both teach of games where players select awards. Therefore, Bennett, Walker et al., and Colin et al. are analogous art. Bennett teaches:

Regarding Claims 11 and 29:

- displaying a value amount when one of the game piece images from the plurality of game piece images is automatically selected (Column 3, lines 39-45).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Bennett's automatic selection feature in Walker in view of Colin. One would be motivated to do so because this "passive" type of awarding system was notoriously well known in the art. Furthermore, automatically selecting a zone, that by definition has a prize associated with it, is highly exciting to a player.

8. Claims 21, 33, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,077,163).

Walker et al. discloses to one having ordinary skill in the art that as discussed above regarding claims 1-6, 12-20, 22-24, 30-32, 34-37, and 39-41. Although Walker et al. discloses a network, Walker et al. seems to lack explicitly disclosing:

Regarding Claims 21, 33, and 38:

- said gaming apparatuses are interconnected via the Internet.

However, to one having ordinary skill in the art at the time of Applicant's invention, operating a gaming device over a network, whether the network is a LAN, WAN, or the Internet, was notoriously well known. One would be motivated to operate the gaming machines over a

network such that a casino management system could monitor all monetary exchanges between the gaming machines and players.

Response to Arguments

9. Applicant's arguments filed March 15, 2004 have been fully considered with regards to the objection to Figure 3, but they are not persuasive. Applicant believes the objection to Figure 3 should be withdrawn because there is no requirement that box 100 be labeled as "controller" as it is referred to in the specification on page 8, lines 3-4. The examiner respectfully disagrees. First, each and every box in Figure 3, except for box (100), is labeled with both textual and numerical indicia. Secondly, MPEP 608.02(e) states the examiner determines the completeness and the consistency of the drawings. Therefore, the examiner maintains the objection to Figure 3.

10. Applicant's arguments, see page 17, filed March 15, 2004, with respect to the objection to Figures 4A and 4B have been fully considered and are persuasive. The objection to Figures 4A and 4B has been withdrawn.

11. Applicant's arguments, see pages 2 and 18, filed March 15, 2004, with respect to the objection to the abstract have been fully considered and are persuasive. The objection to the abstract has been withdrawn.

12. Applicant's arguments, see page 18, filed March 15, 2004, with respect to the objection to the specification for lacking a "summary of the invention" has been fully considered and is persuasive. The objection to the specification has been withdrawn.

13. Applicant's arguments and amendments, see pages 12-14 and 18, filed March 15, 2004, with respect to the objection to claims 39-41 have been fully considered and are persuasive. The objection to claims 39-41 has been withdrawn.

14. Applicant's arguments, see pages 18 and 19, filed March 15, 2004, with respect to the objection to claims 21, 33, and 38 have been fully considered and are persuasive. The objection to claims 21, 33, and 38 has been withdrawn.

15. Applicant's arguments, see page 19, filed March 15, 2004, with respect to the objection to claims 1, 13, 17, 31, and 39 have been fully considered and are persuasive. The objection to claims 1, 13, 17, 31, and 39 has been withdrawn.

16. Applicant's arguments, see page 19, filed March 15, 2004, with respect to the rejection to claim 10 under 35 U.S.C. 112, second paragraph has been fully considered and is persuasive. The rejection to claim 10 under 35 U.S.C. 112, second paragraph has been withdrawn.

17. Applicant's arguments, see page 19, filed March 15, 2004, with respect to the rejection to claims 17, 22, and 34 under 35 U.S.C. 112, second paragraph have been fully considered and are persuasive. The rejection to claims 17, 22, and 34 under 35 U.S.C. 112, second paragraph has been withdrawn.

18. Applicant's arguments and amendments, see pages 12-14 and 19, filed March 15, 2004, with respect to the rejection to claims 39-41 under 35 U.S.C. 112, second paragraph have been fully considered and are persuasive. The rejection to claims 39-41 under 35 U.S.C. 112, second paragraph has been withdrawn.

19. Applicant's arguments filed March 15, 2004 with respect to the rejection to claims 1-6, 12-20, 22-24, 30-32, 34-37, and 39-41 under 35 U.S.C. 102(b) as being anticipated by Walker et

al. (U.S. 6,077,163); the rejection to claims 7-10 and 25-28 under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,077,163) in view of Colin et al. (U.S. 6,346,043); the rejection to claims 11 and 29 are under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,077,163) in view of Colin et al. (U.S. 6,346,043) and further in view of Bennett (U.S. 6,102,798); and the rejection to claims 21, 33, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (U.S. 6,077,163) have been fully considered but they are not persuasive. Applicant believes the rejections should be withdrawn because Walker et al. allegedly does not disclose, teach, or suggest, "deducting a fee at intervals from the value total independent of input from a player." as now recited in the amended claims. In particular, Applicant alleges Walker et al.'s "session" is dependent solely upon input from the player. However, the examiner respectfully disagrees. As noted by the examiner in previous office action, paper No. 3, Walker et al. discloses, in another embodiment, price parameters are operator selected price parameters, rather than, player selected price parameters and therefore does not require player input. (Abstract, Column 1, lines 62-65, Column 11, lines 51-57, and Claims 5, 36, 46, and 59). Therefore, for the reasons discussed hereinabove, the examiner maintains the rejections as stated in previous office action, paper No. 3.

Conclusion

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Thursday, 6:30 A.M. - 5:00 P.M..

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sej
SEJ

JOHN M. HOTALING, II
PRIMARY EXAMINER

NOT APPROVED
6-8-04
SEJ

Amendments to the Drawings:

Applicants submit herewith sixteen (16) replacement sheets of formal drawings. Applicants respectfully request entrance of these replacement drawings.

Appendix: Sixteen (16) replacement sheets of drawings.